

IN CIRCUIT COURT
SEVENTH JUDICIAL CIRCUIT

PRETRIAL SCHEDULING ORDER

1. The PLAINTIFF shall designate and identify his EXPERT WITNESSES on or before _____, with a brief summary of each expert's expected testimony. Defendant shall complete the deposition of Plaintiff's experts on or before _____.
2. The DEFENDANT shall designate and identify his EXPERT WITNESSES on or before _____, with a brief summary of each expert's expected testimony. Plaintiff shall complete the deposition of Defendant's experts on or before _____.
3. The parties shall file any dispositive motion on or before June 11, 2012 with responses to be filed _____. Any reply shall be filed _____. A motion hearing shall be held on _____ at 8:30 a.m.
4. The DEADLINE TO COMPLETE DISCOVERY shall be September 15, 2012.
5. The PRETRIAL CONFERENCE and any additional motions shall be heard on _____, at 9:00 a.m. in Courtroom #7 of the Pennington County Courthouse in Rapid City, South Dakota.
6. The JURY TRIAL in this matter is hereby set for _____, through _____, at the Pennington County Courthouse in Rapid City, South Dakota. Trial will commence at 8:30 a.m., with counsel appearing at 8:15 a.m.

7. At least TEN (10) DAYS BEFORE THE PRETRIAL CONFERENCE all counsel shall furnish the following items to the Court and opposing counsel:
- a. ISSUES REMAINING FOR TRIAL: (Set forth the issues joined by the pleadings which have not been disposed of by pretrial motion or agreement of the parties).
 - b. FACT SUMMARY: (Set forth a summary of the facts the party believes will be proven by the evidence).
 - c. UNCONTROVERTED AND STIPULATED FACTS: (Set forth uncontroverted and agreed upon facts, if any, and any which, although not yet agreed upon, could be).
 - d. LEGAL QUESTIONS: (Set forth the legal questions raised by the issues. Either note citations here or attach a pretrial brief with request to these questions).
 - e. WITNESSES - NATURE OF TESTIMONY AND AVAILABILITY: (List witnesses, state nature of their testimony, whether a deposition has been taken or is desired, and availability of witness -- notice required, location, any problems involved, etc.).
 - f. TRIAL TIME: (Set forth the estimated time required for trial of the case to the 1/2 day, including impaneling of a jury, if a jury trial).
 - g. JURY INSTRUCTIONS: (In jury cases, proposed instructions shall be prepared on the issues by the party having the burden of proof on such an issue. The party bringing the action shall also prepare the general instructions, involving the burden of proof, verdict, and other routine matters).

In addition to the general instructions, both parties must submit the following four instructions MODIFIED for the FACTS AND ISSUES of the case:

- (1) The “Issues Made By The Pleadings” instruction. Examples are found in S.D. Patterns 20-00 to 20-03.
- (2) The “Issues To Be Determined By The Jury” instruction. Examples are found in S.D. Patterns 20-04 to 20-09.
- (3) The “Burden of Proof” instruction. S.D. Pattern 21-01. You MUST modify this instruction for the specific issues that Plaintiff(s) and Defendant(s) are asserting for each claim and each defense.
- (4) A “Damage” instruction modified for all damages claims, which may have

evidentiary foundation in this case.

(Where applicable, South Dakota Pattern Jury Instructions shall be used. Proposed instructions shall be prepared in accordance with the provisions of SDCL 14-6-51(a). The source of the instructions shall appear on the copies. The original and one copy of the instructions shall accompany the original of the pretrial checklist furnished to the Court. Copies shall also be provided to opposing counsel).

h. MOTIONS PENDING: (List motions in pleadings, etc., remaining to be disposed of).

i. EXHIBITS: (List all exhibits you intend to use at trial).

(1) Joint exhibits shall be marked using capital letters, i.e., A, B, C, etc.

(2) Plaintiff's exhibits shall be marked using Arabic numbers beginning with 1, i.e., 1, 2, 3, etc.

(3) Defendant's exhibits shall be marked alphabetically beginning with A, i.e., A, B, C, etc.

j. OTHER: (Set forth matters which you feel should be discussed at the pretrial conference).

8. At least FIVE (5) DAYS BEFORE THE PRETRIAL CONFERENCE all counsel shall furnish to the Court the following:

a. Specific objections and Statute citations as to exhibits of the opposing party. If there is no objection then such exhibit will be admitted.

b. Specific objections to the opposing party's Proposed Jury Instructions.

c. A request for a factual stipulation that would shorten the trial.

d. An index of the party's Proposed Jury Instructions, including citation to the author.

e. BRIEFS citing authorities in support of each party's claims and defenses. Also discuss any anticipated substantive, procedural or evidentiary problems.

9. ALL PARTIES SHALL BRING TO THE PRETRIAL CONFERENCE:

a. Their properly marked exhibits, photographs, demonstrative models, and any

similar items to be used at trial, including all audio or video equipment.

b. A day-by-day listing of their witnesses along with the estimated length of time each witness will be examined by counsel (direct and cross).

c. Be prepared to discuss preliminary settlement and objections to all instructions at the pretrial conference.

10. All exhibits will be presented to the Court Reporter for marking prior to commencement of the jury trial unless unusually large or impractical.

11. Except for good cause shown, no party shall be permitted to offer in evidence (other than in rebuttal or as impeachment) the testimony of any trial witness or any deposition or part thereof or any exhibits not listed or submitted by said party as herein required.

This Pretrial Scheduling Order shall not be modified except by leave of this Court upon a showing of good cause.

Dated this _____ day of _____.

BY THE COURT:

JANINE M. KERN
Circuit Court Judge

ATTEST:

Ranae Truman
Clerk of Courts

By _____
Deputy

(S E A L)